

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

TERRELL JOHNSON,

Plaintiff,

v.

Case No. 06-C-0388

HOLIDAY INN EXPRESS,

Defendant.

DECISION AND ORDER

Plaintiff, Terrell Johnson, filed this *pro se* civil rights action pursuant to 42 U.S.C. § 1983 and is proceeding *in forma pauperis* on a Fourth Amendment illegal search claim. Currently pending is the defendant's motion to dismiss.

The defendant filed a motion to dismiss on October 2, 2007. The plaintiff did not file a response to the defendant's motion. Federal Rule of Civil Procedure 41(b) provides for involuntary dismissal for failure to prosecute an action or to comply with court orders. Additionally, a plaintiff's failure to respond that delays the litigation can be a basis for a dismissal for lack of prosecution. *Bolt v. Loy*, 227 F.3d 854, 856 (7th Cir. 2000); see also *Rice v. City of Chicago*, 333 F.3d 780, 785-86 (7th Cir. 2003) ("the ultimate sanction of dismissal should be involved only in extreme situations, where there is a clear record of delay or contumacious conduct."). However, no case should be dismissed for failure to prosecute without a warning to the plaintiff, either explicitly or by making clear that no further extensions of time will be granted. *Bolt*, 227 F.3d at 856 (citing *Williams v. Chic. Bd. of Educ.*, 155 F.3d 853 (7th Cir. 1998)).

By order dated January 29, 2008, the court granted the plaintiff additional time until February 19, 2008, to file a response to the defendant's motion. On that date, the court advised the plaintiff that his action could be dismissed for failure to prosecute if he failed to file a response by February 19, 2008. To date, no response has been filed.

In light of the foregoing, the court finds that the plaintiff has been given ample time to respond to the defendant's motion and he has been warned that this action is subject to dismissal. Nevertheless, the plaintiff failed to file a response to the defendant's motion. Therefore, this action will be dismissed for failure to prosecute. The plaintiff may petition for reinstatement within 20 days. See Civil Local Rule 41.3 (E.D. Wis.).

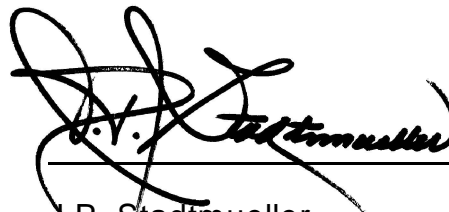
Accordingly,

IT IS, THEREFORE, ORDERED that this action be and the same is hereby **DISMISSED** with prejudice for failure to prosecute.

The Clerk of Court is directed to enter judgment accordingly.

Dated at Milwaukee, Wisconsin, this 21st day of February, 2008.

BY THE COURT:

A handwritten signature in black ink, appearing to read "J.P. Stadtmueller", is written over a horizontal line.

J.P. Stadtmueller
U.S. District Judge